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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/652,272 | 08/31/2000 | Sanford M. Stevenson | 1843-A-DIV-CIP-DIV | 2794 |

7590

11/18/2004

Daniel J. Long
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Amherst, NH 03031

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| EXAMINER |
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HRUSKOCI, PETER A

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| ART UNIT | PAPER NUMBER |
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1724

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/652,272

Applicant(s)

STEVENSON, SANFORD M.

Examiner

Peter A. Hruskoci

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2001 and 21 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-14, 16, 24-27, and 29-31 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. It is submitted that the evidence presented in Chemical Separation Technology v. United States with regard to the PIT System used in the Keystone plant shows public use or sale of the invention recited in the instant claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-11, 24-27, and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over the evidence presented in Chemical Separation Technology v. United States with regard to the PIT System used in the Keystone plant as above. It is submitted that the evidence noted above not only suggests but embodies the teachings recited in the above claims. Since the System in the Keystone plant is considered prior art, it would have been obvious to one skilled in the art to utilize the method steps suggested or embodied in PIT System from the Keystone plant, to aid in removing metal compounds comprising copper metal compounds from waste water, as recited in the instant claims.

Claims 12-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over the evidence presented in Chemical Separation Technology v. United States with regard to the PIT

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System used in the Keystone plant as above, and further in view of Pahmeier et al. 4,724,084.

The claims appear to differ from the evidence with regard to the PIT System used in Keystone plant as applied above by reciting that the separation in step (e) is conducted by means of a clarifier or a settling pond. Pahmeier et al. disclose (see col. 3 line 29 through col. 5 line 14) that it is known in the art to utilize a clarifier to aid in separating a settled sludge from a clarified effluent. It is submitted that the clarifier of Pahmeier et al. is considered patentably indistinguishable from the recited settling pond. It would have been obvious to one skilled in the art to modify the method of the PIT System used in the Keystone plant by utilizing the recited clarifier or settling pond in view of the teachings of Pahmeier et al. , to aid in separating the floccules from the water.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the evidence presented in Chemical Separation Technology v. United States with regard to the PIT System used in the Keystone plant in view of Pahmeier et al. as above, and further in view of Inglis 4,652,381. The claims differ from the references as applied above by reciting that the polymer is an anionic polymer which is used for primary clarification and settling purposes. Inglis disclose (see col. 3 lines 10-30, and col. 7 line 47 through col. 8 line 14) that it is known in the art to utilize an anionic polyelectrolyte flocculant to aid in settling heavy metal carbonates and in producing a clarified supernatant. It would have been obvious to one skilled in the art to modify the references as applied above, by utilizing the recited polymer in view of the teachings of Inglis, to aid in settling the floccules and producing clarified water.

It is requested that applicant verify the accuracy of the Serial No., filing dates, and Patent No. in the Related Applications disclosed on page 1 of the specification.


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It is further noted that the Terminal Disclaimer filed 4/2/01, identifies the wrong patent number 4,370,800 instead of 5,370,800. A new terminal disclaimer with the correct patent number is required.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter A. Hruskoci whose telephone number is (571) 272-1160. The examiner can normally be reached on Monday through Friday from 6:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Peter A. Hruskoci
Primary Examiner
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11/8/04